IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 35738 of 2005(D)

AGAINST THE ORDER DATED IN OS 453/2002. IN IA.4640/2005 of ADDL.SUB COURT,PARAVUR

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PETITIONER:

ABDUL AZEEZ, S/O. HASSAN,
AGED 47 YEARS, C-46, F.A.C.T. TOWNSHIP,
UDYOGAMANDAL P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.C.S.MANU
SRI.ANOOP JOSEPH

RESPONDENTS:

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1. RUKHIA BEEVI, W/O. IBRAHIM,
PATTASSERY HOUSE, MANJUMMEL.

2. NOUSHAD, S/O. IBRAHIM,
PATTASSERY HOUSE, MANJUMMEL.

3. ISMAIL KUNJU,
KANATHU THEKKATHIL HOUSE, THAVALAKKARA,
PADINJARAKKARA P.O., KOLLAM DISTRICT.

4. YOUSUFF KUNJU,
VELAMPARAMBIL HOUSE, VADAKKANTHALA,
KIZHAKKU P.O., KOLLAM DISTRICT.

BY ADV. SRI.V.SANKARA RAJA
SMT.T.T.JOSEPHINE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.. 35738/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE AGREEMENT DATED 10.4.2001 PRODUCED BY THE PETITIONER IN O.S. NO.453 OF 2002 ON THE FILE OF THE ADDITIONAL SUB COURT, NORTH PARAVUR.

EXT.P2: COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS IN O.S. NO. 453/2002 ON THE FILE OF the ADDITIONAL SUB COURT, NORTH PAAVUR.

EXT.P3: COPY OF THE I.A. NO. 4640 OF 2005 FILED BY THE RESPONDENTS IN O.S. NO. 453/2002 ON THE FILE OF THE ADDITIONAL SUB COURT, NORTH PARAVUR.

EXT.P4: COPY OF THE ORDER DATED 26.11.2005 IN I.A. NO.4640 OF 2005 IN O.S. NO. 453 OF 2002 ON THE FILE OF THE ADDITIONAL SUB COURT, NORTH PARAVUR.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 35738 of 2005

Dated this the 31st day of May 2007

JUDGMENT

Sri.V.Sankara Raja, the learned counsel for the respondents is certainly right when he submits that the construction of the learned Munisff of Ext.P1 as a bond cannot be described as a wholly unreasonable one so as to warrant invocation of the supervisory jurisdiction of this court under Article 227. But I notice that in **Mathai Mathew v. Thampi (1989 (1) KLT 138),** this court has ruled that if two constructions are possible regarding the nature of the document which is put in evidence, that interpretation which is more favourable to the person who puts document in evidence is to be accepted. Interpretation that Ext.P1 is an agreement and not a bond is also equally possible. I follow the judgment in Mathai Mathew's case (supra) and set aside Ext.P4 order to the extent it relates to Ext.P1 document. The Learned Munsiff will

permit marking of Ext.P1 as an agreement and continue with the trial accordingly.

The writ petition stands allowed. No costs.

PIUS C. KURIAKOSE,
JUDGE.